IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Second Appeal No. 1367 of 2001
(Old No. 254 of 1987)

1. Rullah
2. Bodda
3. Kalli Ram
   All S/o of Late Sri Barun
   R/o Laksar, Pargana Manglore
   Tehsil Roorkee
   District Saharanpur ... Appellants

Vs

Madan Lal S/o Sri Shamboo Lal
R/o Laksar Pargana Manglore
Tahsil Roorkee
District Saharanpur ... Respondents

Sri Anil Singh Ranal holding brief of Sri H.N. Sharma, learned counsel for the appellants

Hon'ble B.C. Kandpal, J.

This second appeal has been preferred by the appellants against the judgment and decree dated 01.05.1987 passed by Civil Judge, Roorkee in Civil Appeal No. 8 of 1985 arising out of the judgment and decree dated 27.10.1984 passed by Munsif, Roorkee in Original Suit No. 42 of 1983.

2. Brief facts of the case are that the plaintiff/respondents filed a suit before the Civil Judge, Roorkee who dismissed the suit vide judgment and decree dated 27.10.1984.

3. Feeling aggrieved by the aforesaid judgment and decree, the plaintiff/respondents preferred an appeal before the lower appellate court by which the judgment and decree dated 27.10.1984 passed by Munsif Magistrate, Rudrapur was set aside vide judgment and decree dated 01.05.1987.

4. Feeling aggrieved by the aforesaid judgment and decree, the appellant preferred an appeal before the Allahabad High Court, which has been transferred to this Court after creation of separate State.

5. Heard Sri Anil Singh Ranal holding brief of Sri H.N. Sharma, learned counsel for the appellants and perused the record.

6. Having considered the arguments advanced by the learned counsel for the appellant and after perusal of the evidence on record, I am of the view that this second appeal is concluded by finding of facts, I, therefore, do not find any ground to interfere in the impugned judgment and order passed by the court below. The lower appellate court has recorded justified and proper finding of fact which cannot be interfered at the stage of second appeal. I also do not find any substantial question of law involved in this case.

7. The second appeal lacks merit and is liable to be dismissed.

8. Accordingly, the second appeal is dismissed in-limine.

(B.C. Kandpal, J.)

02.12.2006
ASWAL